

Message Text

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ORIGIN AEC-11

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CIAE-00 INR-10 NSAE-00 NSC-10 RSC-01 FEA-02 SS-20

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P 221646Z JAN 74

FM SECSTATE WASHDC

TO AMEMBASSY VIENNA PRIORITY

INFO AMEMBASSY MEXICO PRIORITY

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E.O. 11652: N/A

TAGS: TECH, IAEA, MX, US

SUBJ: NUCLEAR FUEL SUPPLY FOR MEXICAN POWER REACTOR

REF: IAEA VIENNA 0397 AND 0398

1. USAEC PREPARED PROCEED WITH DRAFT SUPPLY AGREEMENT BETWEEN MEXICO, IAEA, AND U.S. IN HOPES SUCH DRAFT MAY BE APPROVED BY BOARD IN FEBRUARY MEETING. FOLLOWING ARE USAEC COMMENTS ON AGENCY'S PRELIMINARY DRAFT:

A. ARTICLE I. 2. IN FIRST SENTENCE DELETE "CONJUNCTION WITH" AND INSERT IN LIEU THEREOF IMPLEMENTATION OF. IN SECOND SENTENCE FOLLOWING "(B)" DELETE "A" AND INSERT IN LIEU THEREOF PROCEDURES FOR REACHING AGREEMENT UPON. ALSO, INSERT THE WORDS AND THEREAFTER AT END OF SAID SECOND SENTENCE. DELETE THIRD SENTENCE IN ITS ENTIRETY.

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B. ARTICLE III. 1. USAEC STRONGLY FEELS THAT THE LONG-TERM

CONTRACT PROJECTED TO BE ENTERED INTO BETWEEN MEXICO AND USAEC SHOULD CONTAIN STANDARD ENRICHMENT CONTRACT PROVISION CALLING FOR DELIVERY F.O.B. AT AEC SUPPLYING FACILITY RATHER THAN AT A "PORT OF EXPORT IN THE UNITED STATES" AS CALLED FOR IN AGENCY DRAFT, SINCE TO DO OTHERWISE WOULD BE DISCRIMINATORY; HOWEVER, RECOGNIZE PROBLEMS MENTIONED BY AGENCY. ACCORDINGLY USAEC GIVING FURTHER CONSIDERATION INCLUDING ALTERNATIVE SOLUTION AS SUGGESTED PARAGRAPH 8 VIENNA 0398.

C. ARTICLE III. 2. SHOULD BE REVISED BY INSERTING "IN ACCORDANCE WITH THE LONG-TERM CONTRACT" AT THE END OF FIRST SENTENCE.

D. ARTICLE VI. 1. SHOULD BE REVISED TO READ "IN THE EVENT OF TERMINATION OR SUSPENSION OF THE LONG-TERM CONTRACT AS PROVIDED FOR THEREUNDER, THE COMMISSION AND MEXICO SHALL JOINTLY NOTIFY THE AGENCY OF THE DATE ON WHICH SUCH TERMINATION OR SUSPENSION IS EFFECTIVE. THIS AGREEMENT SHALL BE TERMINATED OR SUSPENDED AS PROVIDED IN SUCH NOTICE. IT IS AGREED BY MEXICO AND THE AGENCY THAT ANY SUCH TERMINATION OR SUSPENSION SHALL BE WITHOUT PREJUDICE TO THE IMPLEMENTATION OF THE RIGHTS AND RESPONSIBILITIES OF THE AGENCY UNDER THE PROJECT AGREEMENT."

E. ARTICLE VI. 2. IN THE SECOND SENTENCE DELETE "EITHER" AND INSERT ANY IN LIEU THEREOF.

F. ARTICLE VII. AS SUGGESTED REFTTEL, TEXT THIS ARTICLE SHOULD BE ESSENTIALLY IDENTICAL TO THAT USED IN RECENT US-IAEA THIRD COUNTRY SUPPLY AGREEMENTS.

G. ARTICLE VIII. THE LAST CLAUSE SHOULD BE REVISED TO READ "AND SHALL REMAIN IN FORCE FOR THE PERIOD OF THE LONG-TERM CONTRACT."

H. FINALLY, ADD A NEW ARTICLE IX, AGREEMENT FOR COOPERATION, AS FOLLOWS:

"THIS AGREEMENT, AS WELL AS THE LONG-TERM CONTRACT, SHALL BE SUBJECT TO AND IN ACCORDANCE WITH THE COOPERATION AGREEMENT, AS IT MAY BE AMENDED. IN THE EVENT OF ANY CONFLICT BETWEEN THIS UNCLASSIFIED

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AGREEMENT OR THE LONG-TERM CONTRACT, AND THE COOPERATION AGREEMENT, THE LATTER SHALL GOVERN."

2. FOR INFORMATION OF MISSION AND AGENCY, PROPOSED U.S. -MEXICO CONTRACT WILL CONTAIN A "CONDITION SUBSEQUENT" STATING IN EFFECT THAT IN EVENT APPROPRIATE U.S. LEGISLATION AMENDING ATOMIC ENERGY ACT (SECTION 54) TO PERMIT IMPLEMENTATION OF CONTRACT DOES NOT BECOME EFFECTIVE BEFORE A SPECIFIED DATE,

AND UNLESS OTHERWISE AGREED, THE CONTRACT SHALL TERMINATE,
THE OBLIGATIONS OF THE PARTIES WILL BE NULL AND VOID, AND THE
AEC SHALL RETURN ANY ADVANCE PAYMENTS MADE. AS INDICATED
STATE 220704, PROPOSED AMENDMENT TO ATOMIC ENERGY ACT SUBMITTED
TO CONGRESS OCTOBER 30.
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